

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott  
Edward A. Garvey  
Marshall Johnson  
LeRoy Koppendrayer  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Reliant Energy Minnegasco  
(REM) for Approval of Affiliated Interest  
Agreements between REM and Entex Gas  
Resources Corp., a Reliant Energy Company

ISSUE DATE: January 30, 2002

DOCKET NO. G-008/AI-01-1378

In the Matter of a Petition for Approval of an  
Affiliated Interest Agreement between Reliant  
Energy Minnegasco and Reliant Energy  
Services, Inc.

DOCKET NO. G-008/AI-01-1647

ORDER APPROVING AGREEMENT AND  
EXPANDING SCOPE OF INVESTIGATION

**PROCEDURAL HISTORY**

On September 7, 2001, Reliant Energy Minnegasco (REM) asked the Minnesota Public Utilities Commission to approve gas supply agreements with an affiliated entity related to its No Surprises Bill Program. This matter was assigned to Docket No. G-008/AI-01-1378.

On November 1, 2001, REM asked the Commission to approve an agreement between REM and Reliant Energy Services, Inc. (RES), another affiliated entity, pursuant to Minnesota Statutes § 216B.48 and Minnesota Rules part 7829.2200(B). This matter was assigned to Docket No. G-008/AI-01-1647.

On December 4, 2001, the Minnesota Department of Commerce (the Department) filed comments recommending approval of REM's request in Docket No. G-008/AI-01-1647. REM replied to these comments on December 27.

Docket No. G-008/AI-01-1647 came before the Commission on January 17, 2002.

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

REM is a public utility as defined at Minn. Stat. § 216B.02, subd. 4, subject to the Commission's jurisdiction. RES is a gas merchant affiliated with REM. REM proposes to purchase a fixed amount of natural gas from RES for the purpose of fulfilling REM's obligation to serve its customers.

REM has a long history of purchasing gas from affiliated entities, among others. The percentage of its system supply that REM acquires from affiliated entities has grown over time.

### **II. Legal standard**

The Minnesota Legislature directs the Commission to determine whether agreements between a public utility and its affiliates are reasonable and consistent with the public interest:

[N]o contract or arrangement for the purchase, sale, lease or exchange of any property ... between a public utility and any affiliated interest ... is valid or effective unless and until the contract or arrangement has received the written approval of the commission.... The commission shall approve the contract or arrangement ... only if it clearly appears and is established upon investigation that it is reasonable and consistent with the public interest.

Minn. Stat. § 216B.48, subd. 3.<sup>1</sup> In addition, certain procedural requirements are set forth in § 216B.48, as interpreted at Minn. Rules parts 7825.2100, 7829.2200(B) and Commission orders.<sup>2</sup>

### **III. Comments**

The Department, the only party to comment in Docket No. G-008/AI-01-1647, recommends that the Commission approve the agreement. The Department concludes that REM fulfilled the procedural requirements for affiliated transactions, and that the contract is reasonable and consistent with the public interest.

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<sup>1</sup>The provision does not apply to contracts for less than \$50,000 or five percent of the utility's capital equity, whichever is less. Minn. Stat. § 216B.48, subd. 4.

<sup>2</sup>See In the Matter of a Request for Approval by Minnegasco of a Firm Natural Gas Agreement for System Sales between Minnegasco and its Affiliate, NorAm Energy Services, Docket No. G-008/AI-97-1268 ORDER (November 20, 1997); In the Matter of a Commission Investigation into Procedures for Reviewing Public Utility Affiliated Interest Contracts and Arrangements, Docket No. E, G-999/CI-98-651, ORDER INITIATING REPEAL OF RULE, GRANTING GENERIC VARIANCE, AND CLARIFYING INTERNAL OPERATING PROCEDURES (September 14, 1998).

The Department notes that 1) REM solicited bids from thirty vendors, 2) REM received bids from eleven vendors, 3) REM awarded contracts to the low-price bidders, and 4) REM did not award contracts exclusively to affiliated entities. In addition, the Department concludes that the timing and duration of the agreements are consistent with REM's rational strategy of having supply contracts expire and be replaced on a staggered basis.

#### **IV. Commission action**

Having reviewed the agreement and the Department's analysis, the Commission finds the record of this case supports the conclusion that the agreement is reasonable and consistent with the public interest. Consequently, the Commission will approve the agreement.

However, the Commission is concerned by the increasing proportion of REM's gas supplies coming from affiliated entities. While this fact by itself does not imply any wrongdoing, a prudent concern for the public interest prompts the Commission to investigate this pattern. In this regard, the Commission takes note of an existing docket regarding REM's affiliate transactions, Docket No. G-008/AI-01-1378. In the interest of administrative efficiency, the Commission will expand the scope of that docket to incorporate a review of the competitiveness and reasonableness of Minnegasco's bidding process for its system supply.

#### **ORDER**

1. The agreement between Reliant Energy Minnegasco and Reliant Energy Services, filed on November 1, 2001 and assigned to Docket No. G-008/AI-01-1647, is approved.
2. The parties in Docket No. G-008/AI-01-1378 shall incorporate into that docket a review of the competitiveness and reasonableness of Minnegasco's overall bidding process.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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